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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,205	08/22/2006	Markku Keskiniva	47121-5021-00 (230541)	5093
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EXAMINER LOPEZ, MICHELLE				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/590,205

Applicant(s)

KESKINIVA ET AL.

Examiner

Michelle Lopez

Art Unit

3721

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/02/08 has been entered.

Specification

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 4, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Axinti et al. (USPN 4688468). Axinti discloses the claimed pressure fluid operated percussion device, comprising: a frame (2) allowing a tool (18) to be arranged therein movably in its longitudinal direction, means for feeding pressure liquid to the percussion device and for returning pressure

liquid to a pressure liquid tank (6), and means for producing a stress pulse in the tool by utilizing pressure of the pressure liquid, wherein the percussion device comprises a working pressure chamber (d) filled with pressure liquid and, between the working pressure chamber (d) and the tool (18), a transmission piston (1) which is movably arranged in the longitudinal direction of the frame (2).

With respect to claim 1, lines 7-8, note that Axinti's piston areas (c, b, a) are capable of forcing and/or displacing pressurized fluid within their respective facing chambers (d, e, f), thereby generating a pulse stress therein. Therefore, it is deemed that the lower most end area of the piston (not shown numerically), facing the tool (18), is in indirect contact with said tool, even before the impact between them, via a pressurized fluid (i.e. a stress pulse) generated and contained on the space and/or chamber disposed between said piston area and the tool.

With respect to claim 1, Axinti also discloses a charging pressure chamber (f) on the side of the transmission piston facing the tool so that the transmission piston is provided with a pressure surface (b, c) facing the working pressure chamber (e, d) and a pressure facing surface (a and a lower most end surface of the piston not shown numerically) facing the tool; wherein the means for producing a stress pulse comprises a pressure liquid source (6) connected with the working pressure chamber (d) via (g), and means for intermittently feeding to the charging pressure chamber (f) pressure liquid whose pressure enables the piston to be pushed upwardly against the pressure of the liquid in the working chamber (d), into a predetermined upward and/or lifted position thereby discharging pressure liquid out of the working pressure chamber (as shown in col. 2, lines 5-16).

With respect to lines 18-23 of claim 1, Axinti discloses wherein when the piston is in said upward and/or lifted position and in indirect contact with the tool (via the pressurized fluid and/or stress pulse generated in the pressure chamber disposed between said piston and said tool) pressurized liquid in the working chamber pushes the transmission piston towards the tool, compressing the tool in its longitudinal direction (via the indirect contact as discussed above) and thus generating a stress pulse before and during impact of the piston with the tool.

With respect to claim 2, Axinti shows wherein the means for feeding pressurized pressure liquid (6) is capable of maintaining a pressure in the working chamber as desired (as shown in col. 1, lines 44-53).

With respect to claim 3, Axinti discloses equal pressure of pressurized liquid being fed to the working and charging chambers, and wherein the pressure surfaces of the piston are dimensioned in a way that a sum of forces being formed pushes the piston into its backward position as shown in the Abstract.

With respect to claims 4-5, Axinti discloses wherein the working pressure chamber (d) is connected to a pressure liquid pump (6); and pressure accumulator (5) connected to the working pressure chamber (d).

Response to Arguments

4. Applicant's arguments filed 11/03/08 have been fully considered but they are not persuasive. Applicant contends that Axinti fails to disclose wherein when starting to create the stress pulse into the tool, the piston is in contact with the tool, that is, when the pressure above the piston starts to push the piston towards the tool, it simultaneously starts compressing the tool through the piston and the creation of the stress pulse starts at the same time.

However, examiner asserts that claims are given their broadest reasonable interpretation consistent with the specification. In this instance, claim 1 does not specifically require a direct contact of the piston with the tool. Claim 1, lines 6-8, merely discloses wherein “the piston ... is in contact with the tool either directly or indirectly at least during stress pulse generation”. The specification has been carefully reviewed by the examiner, and it is the examiner’s opinion that the specification does not provide support for such indirect contact between the piston and the tool. It is the examiner position that Axinti, indeed, shows an indirect contact between the piston and the tool as discussed above in the rejection.

For the reasons above, the grounds of rejection are deemed proper.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michelle Lopez/
Examiner, Art Unit 3721

/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit 3721